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Attorneys for Defendant
JOHNNIE TANGHA

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
JOHNNIE TANGHA et al,)
)
Defendants.)
_____)

No. CR 01-20154 JF

**STIPULATED EXPEDITED MOTION TO
CONTINUE SENTENCING**

[N.D. Cal. Crim. Local Rule 47-3]

Court: Judge Fogel

STIPULATED EXPEDITED MOTION TO CONTINUE

Defendant JOHNNIE TANGHA hereby moves the Court on an expedited basis, pursuant to Local Rule 47-3, for an order continuing the currently scheduled June 30, 2011, sentencing date in this matter to September 15, 2011, at 9:00 a.m. Mr. Tangha so moves on the basis of his counsel's unavailability for the currently scheduled motions sentencing date.

Though this motion is being made on an expedited basis pursuant to the procedure set forth for in the local rules for ex parte motions in accord with Local Rule 47-3(a), and pursuant to

Tangha: Expedited Motion to Continue

1 the stipulation of Shawna Yen, Assistant United States Attorney for the Northern District of
2 California.

3 Dated: June 10, 2011.

Respectfully Submitted,

4
5 /s/ Mark Rosenbush

6 MARK ROSENBUSH
7 Attorney for Defendant
JOHNNIE TANGHA

8 **IT IS SO STIPULATED.**

9 Dated: June 10, 2011.

/s/ Shawna Yen

10
11 SHAWNA YEN
Assistant United States Attorney

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13 **DECLARATION IN SUPPORT OF EXPEDITED MOTION**

14 I, Mark Rosenbush, hereby state:

15 1. I am an attorney duly licensed to practice before this Court. I am the attorney of
16 record for defendant Johnnie Tangha in the above captioned criminal case.

17
18 2. I am currently in the fourth month of what is expected to be the six to seven
19 month trial of the case *United States v. Cerna et al*, CR09-0730 WHA (the "MS-13 case"), in
20 this district in San Francisco. As a result of the massive scope of this trial, which is in session
21 every day, I will be unable to adequately prepare for Mr. Tangha's sentencing by the currently
22 scheduled date.

23
24 3. I have discussed my unavailability, lack of opportunity to prepare, the proposed
25 continuance of the hearing date in this case with AUSA Shawna Yen, counsel for the
26 government. Counsel for the government informed me that the U.S. Attorney stipulates to the
27 continuance of the sentencing date proposed herein and authorizes me include the government's
28

stipulation in this motion.

I declare, under penalty of perjury under the laws of the United States, that the foregoing is true to the best of my knowledge and belief. Executed this 10th day of June, 2011, in San Francisco, California.

/s/ Mark Rosenbush

MARK ROSENBUSH
Attorney for Defendant
JOHNNIE TANGHA

MEMORANDUM OF POINTS AND AUTHORITIES

Criminal Local Rule 47-3 states:

An *ex parte* motion is a motion filed and submitted for immediate determination by the assigned Judge without giving an opposing party the amount of advance notice which is otherwise required by statute, federal rule or local rule. Unless relieved by these local rules or by order of a Judge for good cause shown or unless being filed under seal pursuant to a statute or federal or local rules, a party making an *ex parte* motion shall nevertheless give reasonable advance notice of the motion to an opposing party.

Northern Dist. of Cal. Crim Local. Rules, Rule 47-3(a). Motions to continue are not specifically authorized under the local rules as motions for which relief may be sought on an expedited basis. Leave of the Court is therefore required before a continuance motion can be submitted and decided pursuant to Rule 47-3. Given the unavailability of defense counsel in this matter, and the fact that there is a stipulation to the requested order, Defendant hereby requests that the Court decide this matter on an expedited basis. This motion has been served on the government.

In deciding whether to grant a defendants' motion to continue, the Court must consider, among other factors, (1) the extent of the defendants' diligence in readying the defense; (2) the likelihood that the requested continuance would satisfy the defendants' needs; (3) the inconvenience to the court, the opposing party, and witnesses; and (4) the extent to which the defendant may be prejudiced by denial of the requested continuance. See *United States v. Tham*,

1 960 F.2d 1391 (9th Cir. 1992).

2 In this instance a continuance is required because defense counsel is unavailable as the
3 result of counsel's involvement in an ongoing racketeering and homicide trial before another
4 judge of this court, and counsel's resulting inability to prepare for Mr. Tangha's sentencing.
5

6 **CONCLUSION**

7 Pursuant to the above, Defendant Tangha moves the Court to vacate the currently
8 scheduled sentencing date and to continue the matter to September 16, 2011, at 9:00 a.m..

9 Dated: June 10, 2011.

Respectfully submitted,

10 /s/ Mark Rosenbush

11 MARK ROSENBUSH
12 Attorney for Defendant
13 JOHNNIE TANGHA
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	No. CR 01-20154 JF
Plaintiff,)	
)	ORDER [Proposed]
vs.)	Continuing Sentencing
)	
JOHNNIE TANGHA et al,)	
)	
Defendants.)	
_____)	

GOOD CAUSE HAVING BEEN FOUND upon the motion of Defendant Johnnie Tangha, the declaration of counsel Mark Rosenbush, and the stipulation of counsel for the government Shawna Young, as reflected in Mr. Rosenbush's declaration;

IT IS HEREBY ORDERED that the sentencing hearing for Mr. Tangha currently scheduled in this case on June 30, 2011, is hereby CONTINUED to **September 15, 2011**, at the hour of **9:00 a.m.**

Dated: June 22, 2011.


HON. JEREMY FOGEL
U.S. DISTRICT COURT